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Express Mail ET716363024US

**Appeal, and request for Expedited Relief, to the Federal  
Communications Commission on behalf of Preston County  
School District**

March 15, 2004

96-45

Secretary  
Office of the Secretary  
Federal Communications Commission  
445 - 12th Street, S.W., Rm TW-204B  
Washington, D C 20554

This is an appeal from a decision by the Schools and Libraries Division of the USAC.

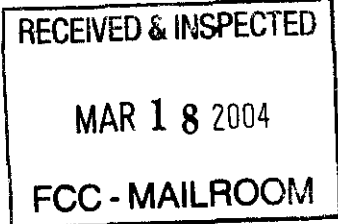
Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed. Please time stamp the extra copy and return it to me in the enclosed self addressed-stamped envelope



Nathaniel Hawthorne  
Attorney for Preston County School District

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Express Mail ET716363024US

Before the  
Federal Communications Commission  
Washington, D.C. 20554

in the Matter of the	)	File No. SLD -
	)	
Appeal of the Decision of the	)	
	)	
Universal Service Administrator by	)	
the	)	
	)	
Preston County School District	)	
	)	
	)	
	)	CC Docket No. 96 - 45
Federal-State Joint Board on	)	
Universal Service	)	
Changes to the Board of Directors of	)	
The National Exchange Carrier	)	
Association, Inc.	)	CC Docket No. 97 - 21

Appeal  
and  
Request for Expedited Relief  
on behalf of the  
Preston County School District

March 15, 2004

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
45 12th Street, S.W Suite TW-A325  
Washington, D.C 20554

This is an appeal from a decision by the Schools and Libraries Division of the USAC.

Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed.

Please time stamp the extra copy and return it to me in the enclosed self addressed-tamped envelope.

(1) **Funding Commitment Decision Letter Appealed**

Form 471 Application Number:	338182
Funding Year 2003:	07/01/2003-06/30/2004
Billed Entity Number:	126776
Date of Funding Denial Notice:	March 3, 2004
Date of Appeal:	March 15, 2004

(2) **SLD Contact Information**

(a) Currie A. Sutton  
27600 Chagrin Blvd., Ste 260  
Cleveland, OH 44122  
Tel. (216) 682-0169  
Fax. (216) 514-3337

(b) Nathaniel Hawthorne, Attorney (To discuss this Appeal)  
27600 Chagrin Blvd., Ste 265  
Cleveland, OH 44122  
Tel. (216) 514-4798

(3) **Funding Request Numbers Appealed**

FRN -945136

(4) **SLD's Reason for Funding Denial**

The SLD stated that funding is denied because:

“30% or more of this FRN includes a request for unsubstantiated charges which are ineligible per program rules.”

(5) **The “30% rule” was incorrectly applied by the SLD.**

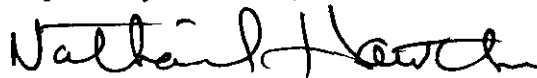
- a) The Preston County School District (Preston) prepared and filed a FCC Form 471 for telecommunications service with Hardy Cellular Telephone Company. as the vendor. The service had an “estimated” monthly charge of \$390.00.
- b) **Exhibit A** is the “billing” that Preston submitted to the SLD.
- c) The actual charges were \$262.77. While the District’s request for funding was based on anticipated (estimated) telecommunications usage, Preston’s expenses should have been reduced rather than denied.
- d) The FCC’s 30% rule provides, *in relevant part*, “[if ] 30% or more of the dollar amount of the request in Form 471 Block 5 Item 23K is for ineligible services (including services for ineligible entities or uses), the PIA team will deny the entire Block 5 funding request, even if eligible components are part of the request. If less than 30% of the dollar amount of the request in Form 471 Block 5 Item 23K is for ineligible services, the PIA team will reduce the request by the cost of the ineligible components, and the Funding Commitment Decision Letter will cite the ineligible services for which funds were not committed. If the request is reduced, applicants and service providers must ensure that the SLD is not invoiced for the ineligible items. [Emphasis added.] **Here, there are no ineligible expenses as expenses relate to ineligible “services” included in Preston’s USF request.**  
**“Unsubstantiated expenses” do not equate to ineligible services.**
- e) Based on the 30% rule and the attached exhibit, there is no reasonable basis for the denial.

Conclusion:

**Preston is Requesting the Following Action by the FCC:**

- (a) Within 90 days or less Order funding for the telecommunications services requested in the 471 Application, specifically FRN -945136;**
- (b) Set aside funds to totally fund Preston's request.**

Respectfully submitted,



Nathaniel Hawthorne

District of Columbia Bar No. · 237693  
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Cleveland, OH 44122  
tel.: 216/514.4798  
e-mail: nhawthorne@earthlink.net

Attorney for  
Preston County School District

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Exhibit A

**FAX COVER SHEET**

**To: Amanda Lopes  
SLD**

**Fax: 1.973.599.6521**

**From: Currie A. Sutton**

**Date: 11-11-2003**

**Pages: 78 (Including Cover)**

**RE: Preston County School District, Application #338182**

**Attached is the documentation that was previously sent to you and Patricia Hasegawa in regards to the above captioned school district and application number.**

**For all FRNs, if the documentation does not support the request, please reduce the amount requested to the amount supported by the documentation.**

**If you have any further questions, please do not hesitate to fax, email or call me.**

**Currie A. Sutton, email: [curries@ameritech.net](mailto:curries@ameritech.net)  
Tel: 216.682.0169 Fax: 216.514.3337**

**The information contained in this facsimile message may be confidential and /or legally privileged information intended only for use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that copying, dissemination, or distribution of confidential or privileged information is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and we will arrange for the return of the facsimile**

## FAX COVER SHEET

To: Patricia Hasegawa, SLD

Fax: 1-973-599-6521

From: Currie A. Sutton

Date: 7-1-2003

Pages: ~~73~~ (Including Cover)

RE: Preston County School District, Application #338182

1. **SLD Request** – For FRN(s) 944977, 944989, 944996, 945006, 945019, 945084, 945132, 945136 and 945146 please provide more detailed documentation.

**Response** – See attached documentation pages 2 through 71.

Additionally,

FRN 945019 (Frontier/Citizens) the documentation supports the cost of 4/56kbs circuits. Four (4) new T1s are planned; with their addition the monthly charge will be an additional \$1685.00. Page 58 of the documentation is the installation cost based on the state master contract which shows the installation costs of a new T1 as \$1200.00 per line (4 x \$1200.00=\$4800.00 non-recurring charge).

FRN 945084 (Verizon) Four (4) new T1s are planned; with their addition the monthly charge will be an additional \$1685.00. Page 62 of the documentation is the installation cost based on the state master contract which shows the installation costs of a new T1 as \$1200.00 per line (4 x \$1200.00=\$4800.00 non-recurring charge).

2. **SLD Request** – We were not able to validate your requested discount of 90% for Rowlesburg School, we could only validate a discount of 80%.

**Response** – See attached documentation to validate 90% discount for Rowlesburg School pages 71 through 73.

Currie A. Sutton, email: [curries@ameritech.net](mailto:curries@ameritech.net)

Tel: 216.682.0169

Fax: 216.514.3337

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FRN 945136

Pgs ~~68-69~~  
67-68

(66)

(67)

**Account Number Summary**  
**PRESTON COUNTY BOARD OF EDUCATION**

910044421

**PAYMENTS RECEIVED**

Payment by check received on 12/27/02 - Thank You

**Total Payments**

**CHARGES**

174.84CR

**TOTAL**

\$174.84CR

**ACCOUNT SUMMARY OF AIRTIME USAGE**

**Local Usage**

REGIONAL 650 ST 341 Calls, 12/04/02 through 1/03/03

SPECIFIC EXTRA Off Peak

286.00 min X 0.00 per min

INCLUDED Peak

584.00 min X 0.00 per min

BILLED Peak

72.00 min X 0.35 per min

**Total minutes**

942.00

**Extended Home Service Area**

REGIONAL 650 ST 205 Calls, 12/04/02 through 1/03/03

SPECIFIC EXTRA Off Peak

198.00 min X 0.00 per min

INCLUDED Peak

66.00 min X 0.00 per min

BILLED Peak

348.00 min X 0.35 per min

**Total minutes**

612.00

**Tax for Account Activity**

**Total Tax for Account Activity**

\$0.00

**Cellular Telephone Number Summary of Totals**

User Name/ Cellular Telephone Number	Mins/ Msgs Used	Adj to Prev Bal	Monthly Service	Local Usage	Roaming Charges	Other Charges & Credits	Taxes	Total
PRESTON COUNTY BOARD OF EDUCATION								
304-290-0022	184.00	0.00	24.95	2.80	0.00	1.96	0.85	30.56 ✓
CHARLES ZINN								
304-290-2233	1,316.00	0.00	44.95	151.35	0.00	1.96	5.91	204.17 ✓
PRESTON COUNTY BOARD OF EDUCATION								
304-290-5322	54.00	0.00	24.95	0.35	0.00	1.96	0.78	28.04 ✓
	1,554.00							<u>\$262.77</u>

**Tax Summary of Totals**

Federal Tax

7.54

**Total Taxes**

7.54

**\*\* MAKE YOUR PHONE WORK FOR YOU - CALL WAITING**

Call waiting, a feature included in most U.S. Cellular rate plans, allows you to receive a second call while you're currently on the phone. By simply pressing the SEND/TALK key on your phone, you will be connected with the second calling party. The same key will reconnect you to your initial conversation. Please note that you will be billed airtime for both calls. For more information log onto [www.uscellular.com](http://www.uscellular.com) and select the Customer Help Center FAQ link or call customer service for assistance.



**FREE ACTIVATION with the purchase of an additional line!**

Now through January 31, 2003, when you add an additional line to your existing account, U.S. Cellular will waive the \$25 activation fee. Call 1-888-BUY-USCC or visit a U.S. Cellular store or authorized agent to find out about our great promotional offers for new lines.

**Cellular Telephone Number Summary**  
**CHARLES ZINN**

**304-290-2233**

	CHARGES	TOTAL
Monthly Service Charges 1/04/03 through 2/03/03		
Monthly charge for REGIONAL 650 ST	40.00	
Including Automatic Roaming Wide		
Call Delivery Wide		
Call Forwarding Immediate		
Call Waiting		
Caller ID		
Detailed Airtime		
Message Waiting Indicator Analog		
Message Waiting Indicator Digital		
No Answer Transfer (Call Forward)		
Three Way Conference Calling		
REGIONAL 3000 N&W	4.95	
<b>Total Monthly Service Charges</b>		<b>44.95</b>
Local Usage		
REGIONAL 650 ST 241 Calls, 12/04/02 through 1/03/03		
SPECIFIC EXTRA Off Peak 250.00 min X 0.00 per min	0.00	
INCLUDED Peak 411.00 min X 0.00 per min	0.00	
BILLED Peak 63.00 min X 0.35 per min	22.05	
TOLL	1.25	
ADDITIONAL CHARGES	0.00	
Total REGIONAL 650 ST 724.00 min	23.30	
<b>Total Local Usage</b>		<b>23.30</b>
Extended Home Service Area Charges		
REGIONAL 650 ST 195 Calls, 12/04/02 through 1/03/03		
SPECIFIC EXTRA Off Peak 191.00 min X 0.00 per min	0.00	
INCLUDED Peak 53.00 min X 0.00 per min	0.00	
BILLED Peak 348.00 min X 0.35 per min	121.80	
TOLL	6.25	
ADDITIONAL CHARGES	0.00	
INT'L ROAM TAXES	0.00	
Total REGIONAL 650 ST 592.00 min	128.05	
<b>Total Extended Home Service Area Charges</b>		<b>128.05</b>
Roaming Charges		
Surcharges	0.00	
Airtime Charges	0.00	
Toll Charges	0.00	
Int'l Roam Taxes	0.00	
<b>Total Roaming Charges</b>		<b>0.00</b>
Other Charges & Credits		
Fed and Other Regulatory Fees	0.78	
WV Wireless E-911 Fee	1.18	
<b>Total Other Charges &amp; Credits</b>		<b>1.96</b>
Taxes		
Federal Excise Tax	5.91	
<b>Total Taxes</b>		<b>5.91</b>
<b>CURRENT CHARGES FOR 304-290-2233</b>		<b>\$204.17</b>

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